

(31 Vic. No. 38) v. (63 & 64 VICT. c. 12)

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VICTORIÆ REGINÆ

(31 Vic. No. 38)

THE CONSTITUTION ACT OF 1867

An Act to Consolidate the Laws relating to the Constitution of the Colony of Queensland  
*[transcript]*

*versus*

VICTORIÆ REGINÆ

(63 & 64 VICT. c. 12)

THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900

An Act to Constitute the Commonwealth of Australia  
*[transcript]*

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ON THE DEMISE OF CONSTITUTIONAL LAW IN THE COMMONWEALTH  
*[notes and observations]*

REFORMATION PROJECT

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*Correct interpretation* cannot be arrived at if we opine from what we have heard or if we stupidly repeat what we have been told. And *Correct interpretation* cannot be arrived at by referring to quite possibly mistaken opinionated precedents and determinations. Opinions can always be *mistaken* and interpretations can always be *interested*: traditional or conventional *lore* is not *LAW* and it is to this latter that we must turn if we are to correctly and decisively determine the Truth of the Constitution and Laws of the Legitimate Commonwealth.

Citing and/or deferring to *common* or *precedential case law* is no valid argument, and no consideration of the High Court is final. (63 & 64 VICT. c. 12) is not *commonised* or *generalised* to the Commonwealth : it is not “English Law imposed on ...”; it is part of the Constitutional and Civil Statutory Law of the Commonwealth. And this is not a matter which is within the jurisdiction of *precedent law* or *interested-convenience opinion*: the Statutory terms and conditions of COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900 are an in-assailable part of the Laws of the Commonwealth, but they are by no means the whole of the law.

It is only if it is studied closely and with some care that it can be seen that (63 & 64 VICT. c. 12) is a *materially-refined* and thrown-together Draft document which is comprised of different [parts of] texts from different times and which appears to contain or be comprised of redactions, parts of which appear to have been transcribed by different hands at different times during the process of drafting. The *as Assented to* published form of (63 & 64 VICT. c. 12), while it appears to be complete in itself, is a consolidation of developed concepts, some of which *may* sometimes give the impression of *interpretable ambiguity* or *indeterminacy favourable to interested interpretation*, but from which section of COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT (1900) can it be argued or justified that the colony-State of Queensland from 9 July 1900 is authorised to maintain the Constitution and Legislative Powers that derive from THE CONSTITUTION ACT OF 1867 ? And if not from this, then from which other section of the later Act ?

In the proceeding it will be demonstrated that The Constitution Act of 1867 (31 Vic. No. 38) is repugnant to THE CONSTITUTION OF THE COMMONWEALTH OF AUSTRALIA ACT OF 1900 (63 & 64 VICT. c. 12), in terms of the parliamentary structure and powers of the invalid legislature and is thereby voided or expunged to the extent of the conferred powers and constitution of the 1867 Legislature being rendered null and void, ineffectual and un-authorised from the year 1901.

The failure or omission of the Legislature of the colony of Queensland to institute the statutory constitution of Government subsequent to the Enactment of (63 & 64 VICT. c. 12) renders that “government” *in-competent* to govern and lacking in authority to legislate since the year 1900 to the current (2019).

Competance is not guaranteed, but it is the law that it must be so.

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(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

*5. Operation of the constitution and laws*

This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State...

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“*Notwithstanding anything in the laws of any State*” does not mean that the competent legislatures of any state may arbitrarily *cause to be expunged*, or repeal or “abolish” or ignore any aspect the Constitution Act of 1900: the Constitution of Queensland of 1867 is expunged by 1900. By *notwithstanding* is meant “*in spite of*”; thus, it is only proper to read as, “(63 & 64 VICT. c. 12) expunges (31 Vic. No. 38) to the extent of the repugnance”.

The following pages contain an accurate and faithful transcription of the Constitution of Queensland of 1867 as it was apparently assented to by Her Majesty, Queen Victoria and the then [considered to be] *competant* Legislature of the Colony of Queensland.

The (following) text of **THE CONSTITUTION ACT OF 1867** has been slightly modified following our own conventions: several statutes have been synoptically corrected, some punctuation has been added, appropriate terms have been capitalised and made consistent; paragraphs of the text have been split where appropriate to isolate provisos and recitations to facilitate its easier reading; the sense and meaning of the Act has been enhanced through this process and has not been detrimentally (politically or ideologically) altered.

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ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ

No. 38

THE CONSTITUTION ACT OF 1867

A Bill to Consolidate the Laws relating to the Constitution of  
the Colony of Queensland

QUEENSLAND

ANNO TRICESIMO PRIMO

VICTORIÆ REGINÆ

No. 38

THE CONSTITUTION ACT OF 1867

A Bill to Consolidate the Laws relating to the Constitution of  
the Colony of Queensland

WHEREAS by an Order in Council empowering the Government of Queensland to make laws and to provide for the administration of justice in the said colony dated at the Court at Buckingham Palace the sixth day of June one thousand eight hundred and fifty-nine [6 June 1859] it was declared and ordered by the Queen's Most Excellent Majesty in Council that the Legislature of the colony of Queensland should have full power and authority from time to time to make laws altering or repealing all or any of the said Order in Council in the same manner as any other laws for the good government of the colony

Preamble.  
Power of alteration of  
Constitution.  
Order in Council.  
s. 22. 1 Pring 242

Except so much of the same as incorporates the enactments of the fourteenth year of Her Majesty's chapter fifty-nine and of the sixth year of Her Majesty's chapter seventy-six relating to the giving and withholding of Her Majesty's assent to Bills and the reservation of Bills for the signification of Her Majesty's pleasure and the instructions to be conveyed to Governors for their guidance in relation to the matters aforesaid and the disallowance of Bills by Her Majesty

Provided that every Bill by which any alteration should be made in the constitution of the Legislative council so as to render the whole or any portion thereof elective should be reserved for the signification of Her Majesty's pleasure thereon and a copy of such Bill should be laid before both Houses of the Imperial Parliament for the period of thirty days at least before Her Majesty's pleasure thereon should be signified

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And whereas by the thirty-first clause of an Act of the sixth year of Her Majesty's chapter seventy-six entitled "*An Act for the government of New South Wales and Van Diemen's Land*" it was enacted as follows —

"That every bill which has been passed by the said Council and also every law proposed by the Governor which shall have been passed by the said Council whether or without amendments shall be presented for Her majesty's assent to the Governor of the said colony and that the Governor shall declare according to his discretion but subject nevertheless to the provisions contained in this Act and to such instructions as may from time to time be given in that behalf by Her Majesty, Her Heirs or Successors that he assents to such Bill in Her Majesty's name or that he withholds Her majesty's assent or that he reserves such a Bill for the signification of Her Majesty's pleasure thereon and all Bills altering or affecting the divisions and extent of the several districts and towns which shall be represented in the Legislative Council or establishing new and other divisions of the same or altering the number of members of the Council to be chosen by the said districts and towns respectively or increasing the whole number of Legislative Council or altering the salaries of the Governor superintendent or judges or any of them and also all Bills altering or affecting the duties of customs upon any goods, wares or merchandise imported to or exported from the said colony shall in every case be so reserved except such Bills for temporary laws as the Governor shall expressly declare necessary to be forthwith assented to by reason of some public and pressing emergency."

And by the thirty-second clause of the said last-mentioned Act it was enacted as follows —

"That whenever any Bill which shall have been presented for Her Majesty's assent to the Governor of the said colony shall by such Governor have been assented to in her majesty's name the Governor shall by the first convenient opportunity transmit to one of Her Majesty's principle Secretaries of state an authentic copy of such Bill so assented to and that it shall be lawful at any time within two years after such Bill shall have been received by the secretary of State for Her Majesty by Order in Council to declare Her disallowance of such Bill and that such disallowance together with a certificate under the hand and seal of the Secretary of State certifying the day on which such Bill was received as aforesaid being signified by the governor to the Legislative Council of the said colony by speech or message to the said Council or by proclamation in the *New South Wales Government Gazette* shall make void and annul the same from and after the day of such signification."

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And by the thirty-third clause of the same Act it was enacted as follows —

“That no Bill which shall be so reserved for the signification of Her Majesty’s pleasure thereon shall have any force or authority within the colony of New South Wales until the Governor of the said colony shall signify either by speech or message to the Legislative Council of the said colony or by proclamation as aforesaid that such Bill has been laid before Her Majesty in Council and that Her Majesty has been pleased to assent to the same and that an entry shall be made in the journals of the said Legislative Council of every of every such speech message or proclamation and a duplicate thereof duly attested shall be delivered to the registrar of the Supreme Court or other proper officer to be kept among the records of the said colony and that no Bill which shall be so reserved as aforesaid shall have any force or authority in the said colony unless Her Majesty’s assent thereto shall have been so signified as aforesaid within the space of two years from the day on which such Bill shall have been presented for Her Majesty’s assent to the Governor as aforesaid and shall have any force or authority in the said colony unless Her Majesty’s assent thereto shall have been so signified as aforesaid within the space of two years from the day on which such Bill shall have been presented for her majesty’s assent to the Governor as aforesaid”

Assent to Bills reserved.  
5 & 6 Vic. c. 76  
s. 24. 1 Pring 196

And by the fortieth clause of the same Act it was declared —

“That it shall be lawful for Her Majesty with the advice of her Privy Council or under Her Majesty’s signet and sign manual or through one of Her principle Secretaries of State from time to time to convey to the Governor of the said colony of New South Wales such instructions as to Her Majesty’s shall seem meet for the guidance of such Governor for the exercise of the powers hereby vested in him of assenting to or dissenting from or for reserving for the signification of Her Majesty’s pleasure Bills to be passed by the said Council and it shall be the duty of such Governor to act in obedience to such instructions”

Governor to conform to  
instructions  
5 & 6 Vic. c. 76  
s. 40. 1 Pring 198

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And whereas by the Act of the eighth year of Her Majesty chapter seventy-four entitled

*“An Act to explain and amend the Act for the Government of New South Wales and Van Diemen’s Land”* and by the seventh section thereof after reciting that ‘by the said recited Act’ (to wit the said hereinbefore mentioned Act of the sixth year of Her Majesty chapter seventy-six) ‘it is provided that certain Bills shall in every case be reserved by the Governor for the signification of Her Majesty’s pleasure thereon and the intent of such provision was to ensure that such Bills as aforesaid should not be assented to by the Governor without due consideration’ it was enacted “That it shall not be necessary for the Governor to reserve any such Bill for the signification of Her Majesty’s pleasure thereon from which in the exercise of his discretion as limited in the said recited Act he shall declare that he withholds Her Majesty’s assent or to which he shall have previously received instructions on the part of Her Majesty to assent and to which he shall assent accordingly”

Extending the Governor’s powers as to giving or withholding the royal assent.  
7 & 8 Vic. c. 74 s. 7. 1 Pring 205

And whereas by the act of the fourteenth year of Her majesty chapter fifty-nine intituled *“An Act for the better government of Her Majesty’s Australian Colonies”* it was provided and enacted that the provisions of the said Act of the sixth year of the reign of Her Majesty as explained and amended by the said Act of the eighth year of the reign of Her Majesty concerning Bills reserved for the signification of Her Majesty’s pleasure thereon shall be applicable to every Bill so reserved under the provisions of the said Act of the fourteenth year of Her Majesty chapter fifty-nine.

Reservation of Bills.  
13& 14 Vic. c. 59 s. 24. 1 Pring 218.

And whereas it is expedient to consolidate the laws relating to the constitution of Her Majesty’s said colony of Queensland

Now therefore Be it enacted by the Queen’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled and by the Authority of the same as follows —

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THE CONSTITUTION ACT OF 1867

*The Legislature.*

1. There shall be within the said Colony of Queensland a Legislative Council and Legislative Assembly. Legislative Council and Legislative Assembly.  
Order in Council s. 1. 1 Pring 238.
2. Within the said Colony of Queensland Her Majesty shall have power by and with the consent of the said Council and Assembly to make laws for the peace welfare and good government of the colony in all cases whatsoever. Legislative council and Assembly constituted.  
Order in Council s. 2. 1 Pring 238.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 1. 1 Pring 224.
- Provided that all Bills for appropriating any part of the public revenue for imposing any new rate tax of impost subject always to the limitations hereinafter provided shall originate in the Legislative Assembly of the said colony. Vic. c. 54. 17 Vic.  
No. 41 s. 1. 1 Pring 224.
3. There shall be a session of the Legislative Council and Assembly once at least in every year so that a period of twelve calendar months shall not intervene between the last sitting of the legislative council and Assembly in one session and the first sitting of the Legislative Council and Assembly in the next session. One session of Parliament to be held each year.  
Order in Council s. 9. 1 Pring 240  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 31. 1 Pring 228.
4. No member of either the Legislative Council or of the Legislative Assembly shall be permitted to sit or vote therein until he shall have taken and subscribed the following oath before the Governor of the colony or before some person or persons authorised by such Governor to administer such oath — No member to sit or vote until he has taken the following oath of allegiance  
Order in Council s. 11. 1 Pring 240.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 24. 1 Pring 228.
- “ I A B do sincerely promise and swear that i will be faithful and bear true allegiance to Her majesty Queen Victoria as law Sovereign of Great Britain and Ireland and of this colony of Queensland dependent on and belonging to the said United Kingdom  
So help me God ” —
- And whensoever the demise of Her present Majesty or of any of Her Successors to the Crown of the said United Kingdom shall be notified by the governor of the colony to the said Council and Assembly respectively the members of the said Council and Assembly shall before they shall be permitted to sit and vote therein take and subscribe the like oath of allegiance to the Successor for the time being to the said Crown.
5. Provided that every person authorised by law to make an affirmation instead of taking an oath may take such affirmation in every case in which an oath is hereinbefore required to be taken. Affirmation may be made instead of oath.  
Order in Council s. 12. 1 Pring 240.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 34. 1 Pring 228.

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*The Legislature.*

6. Any person who shall directly or indirectly himself or by any person whatsoever in trust for him or for his use or benefit or on his account undertake execute hold or enjoy in the whole or in part any contract or agreement for or on account of the public service shall be incapable of being summoned or elected or of sitting or voting as a member of the Legislative Council or Legislative Assembly during the time he shall execute hold or enjoy any such contract or any part or share thereof or any benefit or emolument arising from the same and if any person being a member of such Council or Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it his seat shall be declared by the said Legislative Council or Legislative Assembly as the case may require to be void and thereupon the same shall be become and be void accordingly:

Disqualifying contractors and persons interested in contracts.  
Election to take place on vacancies.  
Schedule to 18 & 19  
Vic. c. 54. s. 28. 17 Vic.  
No. 41 s. 28. 1 Pring 228.

Provided always that nothing herein contained shall extend to any contract or agreement made entered into or accepted by any incorporated company or any trading company consisting of more than twenty persons where such contract or agreement shall be made entered into or accepted for the general benefit of such incorporated or trading company.

Proviso exempting from disqualification members of companies exceeding twenty in number.

7. If any person by this Act disabled or declared to be incapable to sit or vote in the Legislative Council or Legislative Assembly shall nevertheless be summoned to the said Council or elected and returned as a member to serve in the said Assembly for any electoral district such summons or election and return shall and may be declared by the said Council and Assembly as the case may require to be void and thereupon the same shall become and be void to all intents and purposes whatsoever

Election of disqualified persons void  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 29. 1 Pring 228.

And if any person under any of the disqualifications mentioned in the last preceding section shall whilst so disqualified presume to sit or vote as a member of the said Council or Assembly such person shall forfeit the sum of five hundred pounds to be recovered by any person who shall sue for the same in the Supreme Court of Queensland.

Penalty for sitting or voting.

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*The Legislature.*

8. The said Legislative Council and Assembly from time to time hereafter as there may be occasion shall prepare and adopt such standing rules and orders as shall appear to the said Council and Assembly respectively best adapted for the orderly conduct of such Council and Assembly respectively

And for the manner in which such Council and Assembly shall be presided over in case of the absence of the President or the Speaker

And for the mode in which such Council and Assembly shall confer correspond and communicate with each other relative to votes or Bills passed by or pending in such Council and Assembly respectively

And for the manner in which notices of Bills resolutions and other business intended to be submitted to such Council and Assembly respectively at any session thereof may be published for general information and for the proper passing entitling and numbering of the bills to be introduced into and passed by the said Council and Assembly

And for the proper presentation of the same to the Governor for Her Majesty's assent all of which rules and orders shall by such Council and Assembly respectively be laid before the Governor and being by him approved shall become binding and in force

9. Notwithstanding anything hereinbefore contained the Legislature of the said colony as constituted by this Act shall have full power and authority from time to time by any Act or Acts to alter the provisions or laws for the time being in force under this Act or otherwise concerning the legislative Council

And to provide for the nomination or election of another Legislative Council to consist respectively of such members to be appointed or elected respectively by such person or persons and in such manner as by such Act or Acts shall be determined

Provided always that it shall not be lawful to present to the governor of the said colony for Her Majesty's assent any Bill by which any such alteration in the constitution of the said colony may be made unless the second and third readings of such Bill shall have been passed with the concurrence of two-thirds of the members for the time being of the said Legislative Council and of the said Legislative Assembly respectively

Provided also that every bill which shall be so passed for any of such purposes shall be reserved for the signification of Her Majesty's pleasure thereon and a copy of such Bill shall be laid before both Houses of the Imperial Parliament for the period of thirty days at the least before Her Majesty's pleasure thereon shall be signified.

Standing rules and orders to be made.

Order in Council s. 13.

1 Pring 240.

Schedule to 18 & 19

Vic. c. 54. 17 Vic.

No. 41 s. 35. 1 Pring 229.

Power to alter constitution of  
Legislative Council

Schedule to 18 & 19

Vic. c. 54. 17 Vic.

No. 41 s. 36. 1 Pring 229.

Order in Council s. 3. 1 Pring  
239.

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*The Legislature.*

10. It shall be lawful for the Legislature of the colony by any Act or Acts to be hereafter passed to alter the divisions and extent of the several counties districts cities towns boroughs and hamlets respectively and to alter and regulate the appointment of returning officers and make such new and other provision as they may deem expedient for the issuing and return of writs for the election of members to serve in the said Legislative Assembly and the time and place of holding such elections

Power to alter system of representation.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 15. 1 Pring 229.

Provided always that it shall not be lawful to present to the Governor of the colony for Her Majesty's assent any Bill by which the number or apportionment of representatives in the Legislative Assembly may be altered unless the second and third readings of such Bill in the Legislative Council and the Legislative Assembly respectively shall have been passed with the concurrence of a majority of the members for the time being of the said Legislative Assembly and the assent of Her Majesty shall not be given to any such Bill unless an address shall have been presented by the Legislative Assembly to the Governor stating that such Bill has been so passed.

11. Nothing herein contained shall affect the power or authority of any Legislature duly constituted before this Act comes into operation.

Existing Legislation not affected by this Act.

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THE CONSTITUTION ACT OF 1867

*The Governor.*

12. It shall be lawful for the Governor to fix such place or places within any part of the colony and such times for holding every session of the Legislative Council and Assembly of the said colony as he may think fit such times and places to be afterward changed or varied as the Governor may judge advisable and most consistent with general convenience and the public welfare giving sufficient notice thereof and also to prorogue the said Legislative Council and Assembly from time to time and to dissolve the said Assembly by proclamation or otherwise whenever he shall deem it expedient.

Place and time of holding Parliament.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 30. 1 Pring 228.

13. The provisions of the before mentioned of the fourteenth year of Her Majesty chapter 59 and of the Act of the sixth year of Her Majesty chapter seventy-six entitled "*An Act for the government of New south Wales and Van Dieman's Land*" which relate to the giving and withholding of Her Majesty's assent to Bills and the reservation of Bills for the signification of Her Majesty's pleasure thereon and the instructions to be conveyed to Governors for their guidance in relation to the matters aforesaid and the disallowance of Bills by Her Majesty shall apply to Bills to be passed by the Legislative Council and Assembly constituted under this Act and the said Order in Council by any other legislative body or bodies hereafter be substituted for the present Legislative Council and Assembly.

Provisions of former Acts respecting the allowance and disallowance of Bills reserved.  
Order in Council  
s. 14. 1 Pring 240.

14. The appointment of all public offices under the Government of the colony hereafter to become vacant or to be created whether such offices be salaried or not shall be vested in the Governor in Council with the exception of the appointments of the officers liable to retire from office on political grounds which appointments shall be vested in the Governor alone

Appointment to offices under the Government of the colony to be vested in the governor in council or alone.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 37. 1 Pring 229.

Provided always that this enactment shall not extend to minor appointments which by Act of the Legislature or by order of the Governor in Council may be vested in heads of departments or other officers or persons within the colony.

Exceptions.

15. The commissions of the present judges of the Supreme Court of the said colony and of all future judges thereof shall continue and remain in full force during their good behaviour notwithstanding the demise of Her Majesty (whom may God long preserve) or of Her Heirs and Successors any law usage or practice to the contrary thereof in anywise notwithstanding.

Judges continued in the enjoyment of their offices during their good behaviour notwithstanding any demise of the Crown.

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THE CONSTITUTION ACT OF 1867

*The Governor.*

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| 16. It shall be lawful nevertheless for Her Majesty, Her Heirs or Successors to remove any such judge or judges upon the address of both Houses of the Legislature of the colony.  | But they may be removed by the Crown on the address of the Parliament.   |
| 17. Such salaries as are settled upon the judges for the time being by Act of Parliament or otherwise and all such salaries as shall or may be in future granted by Her Majesty, Her Heirs and Successors or otherwise to any future judge or judges of the said Supreme Court shall in all time coming to be paid and payable to every such judge and judges for the time being so long as the patents or commissions of them or any of them respectively shall continue and remain in force. | Their salaries secured during the continuance of their commissions.  |
| 18. It shall not be lawful for the Legislative Assembly to originate or pass any vote or resolution or Bill for the appropriation of any part of the consolidated revenue fund or of any other tax or impost to any purpose which shall not first have been recommended by a message of the Governor of the said Legislative Assembly during the session in which such vote resolution or bill shall be passed.  | No money vote or Bill lawful unless recommended by Governor<br>Schedule to 18 & 19<br>Vic. c. 54. 17 Vic.<br>No. 41 s. 54. 1 Pring 231.              |
| 19. No part of Her Majesty's revenue in the said colony arising from any of the sources hereinafter mentioned shall be issued or shall be made issuable except in pursuance of warrants under the hand of the Governor of the colony directed to the public treasurer thereof.   | No part of public revenue to be issued except on warrants from Governor.<br>Schedule to 18 & 19<br>Vic. c. 54. 17 Vic.<br>No. 41 s. 55. 1 Pring 231. |

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*The Legislative Council.*

20. For the purpose composing the Legislative Council of Queensland the Governor is hereby authorised to summon in Her Majesty's name by an instrument or instruments under the Great Seal of the said colony from time to time to the said Legislative Council such person or persons as he shall think fit and every person who shall be so summoned shall thereby become a member of the Legislative Council of the said colony Provided always that no person shall be summoned to the said Legislative Council who shall not be of the full age of twenty-one years and a natural-born subject of Her Majesty or naturalised by an Act of the Imperial Parliament or by an Act of the legislature of New South Wales before the separation or by an Act of this colony Provided also that not less than four-fifths of the members so summoned to the Legislative Council shall consist of persons holding any office of emolument under the Crown except officers of Her Majesty's sea and land forces on full or half pay or retired officers on pensions.

Legislative Council  
how to be composed.  
Order in Council s. 3. 1 Pring 239.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 2. 1 Pring 224.

21. The members of the said Legislative Council who shall be summoned hereto by the Governor-General shall hold their seats therein for the term of their natural lives subject nevertheless to the provisions hereinbefore referred to and herein after contained for vacating the same and for altering and amending the constitution of the said colony as established by this Act.

Duration of office of Legislative  
Councillors.  
Order in Council s. 4 1 Pring 239.  
Schedule to 18 & 19 Vic. c. 54. 7  
Vic. 1 Pring 224

22. It shall be lawful for any member of the Legislative Council to resign his seat therein by a letter to the Governor and upon receipt of any such letter by the Governor-General the seat of such Legislative Councillor shall become vacant.

Resignation of Councillors.  
Schedule to 18 & 19 Vic. c. 54. 17  
Vic. No. 41 s. 4. 1 Pring 224

23. If any Legislative Councillor shall for two successive sessions of the Legislature of the said colony fail to give his attendance in the said Legislative Council without the permission of Her Majesty or of the Governor of the Colony signified by the said Governor to the Legislative Council or shall take any oath or make any declaration or acknowledgment of allegiance or adherence to any foreign prince or power whereby he may become a subject or citizen of any foreign state or whereby he may become entitled to the rights privileges or immunities of a subject or citizen of any foreign state or power or shall become bankrupt or the take the benefit of any law relating to insolvent debtors or become a public contractor defaulter or be attainted of treason or be convicted of felony or of any infamous crime his seat in such Council shall thereby become vacant.

Vacating seat by absence.  
Schedule to 18 & 19 Vic. c. 54. 17  
Vic. No. 41 s. 5. 1 Pring 224.

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THE CONSTITUTION ACT OF 1867

*The Legislative Council.*

24. Any question which shall arise respecting any vacancy in the Legislative Council on occasion of any of the matters aforesaid shall be referred by the Governor to the said Legislative Council to be by the said Legislative Council heard and determined. Provided always that it shall be lawful either for the person respecting whose seat such question shall have arisen for Her Majesty's Attorney-General for the said colony on Her Majesty's behalf to appeal from the determination of the said Council in such case to Her Majesty and that the judgement of Her Majesty given with the advice of Her Privy Council thereon shall be final and conclusive to all intents and purposes.

Trial of questions of vacancy.  
Schedule to 18 & 19 Vic. c. 54. 17  
Vic. No. 41 s. 6. 1 Pring 224.

25. The Governor of the colony shall have power and authority from time to time by an instrument under the Great Seal of the said colony to appoint one member of the said Legislative Council to be President thereof and to remove him and appoint another in his stead and it shall at all times lawful for the said President to take part in any debate or discussion which may arise in the said Legislative Council.

Appointment of President.  
President may take part in  
debates.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic.  
No. 41 s. 7. 1 Pring 225.

26. The presence of at least one-third of the members of the said Legislative Council exclusive of the President shall be necessary to constitute a quorum for the dispatch of business and all questions which shall arise in the said Legislative Council shall be decided by a majority of votes of the members present other than the President and when the votes shall be equal the President shall have casting vote.

Quorum division casting vote.  
Schedule to 18 & 19 Vic. c. 54. 17  
Vic. No. 41 s. 8. 1 Pring 225.

Provided always that if the whole number of members constituting the said Legislative Council shall not be exactly divisible by three the quorum of the said Legislative Council shall consist of such whole number as is next greater than one third of the members of the said Legislative Council.

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*The Legislative Assembly.*

27. For the purposes of constituting the Legislative Assembly it shall be lawful for the governor from time to time as occasion shall require in Her Majesty's name by an instrument or instruments under the Great Seal of the colony to summon and call together the Legislative Assembly in and for the said colony.

Constitution of Legislative Assembly.  
Order in Council. s. 5. 1 Pring 239.  
Schedule to 18 & 19 Vic. c. 54. 17  
Vic. No. 41 s. 9.

28. The Legislative Assembly shall consist of members duly qualified according to the Legislative Assembly Act for the time being to be elected by the inhabitants of the said colony having any of the said qualifications mentioned in the Electoral Act for the time being.

Members of Assembly.  
Schedule to 18 & 19  
Vic. c. 64. 17 Vic.  
No. 41 s. 10. 1 Pring 224.  
Order in Council s. 6. 1 Pring 239.

29. Every Legislative Assembly of the said colony hereafter to be summoned and chosen shall continue for five years from the day of the return of the writs for choosing the same and no longer subject nevertheless to be sooner prorogued or dissolved by the Governor.

Duration of Assembly.  
Schedule to 18 & 19 Vic. c. 54. 17  
Vic. No. 41 s. 21. 1 Pring 227.  
Order in Council s. 7. 1 Pring 239.

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VICTORIÆ REGINÆ

THE CONSTITUTION ACT OF 1867

*General provisions.*

30. Subject to the provisions contained in the imperial Act of the eighteenth and nineteenth [years of Her Majesty Queen] Victoria chapter fifty-four and of an Act of the eighteenth and nineteenth years of Her Majesty entitled "*An Act to repeal the Acts of Parliament now in force respecting the disposal of the waste lands of the Crown in Her Majesty's Australian Colonies and to make other provisions in lieu thereof*" which concern the maintenance of existing contracts it shall be lawful for the Legislature of this colony to make laws for regulating the sale letting disposal and occupation of the waste lands of the crown within the said colony.

Legislature empowered to make laws regulating sale and other disposal of waste lands.  
Order in Council. s. 17. 1 Pring 241.  
Schedule to 18 & 19 Vic. c. 54. 17 Vic No. 41 s. 43.

31. It shall not be lawful for the Legislature of the colony to levy any duty upon articles imported *bonâ fide* for the supply of Her Majesty's land or sea forces nor to levy any duty impose any prohibition or restriction or grant any exemption from any drawback or other privilege upon the importation or exportation of any articles nor to enforce any dues or charges upon shipping contrary to or at variance with any treaty or treaties concluded with Her Majesty with any foreign power.

Duties not to be levied on supplies for troops nor any duties inconsistent with treaties.  
Order in Council. s. 18. 1 Pring 241.  
Schedule to 18 & 19 Vic. c. 54. 17 Vic No. 41 s. 45. 1 Pring 230.

32. Subject to the provisions of this Act and notwithstanding any Act or Acts of the Imperial Parliament now in force to the contrary it shall be lawful for the Legislature of the colony to impose and levy such duties of customs as to them may seem fit on the importation into the colony of any goods wares and merchandise whatsoever whether the produce of or exported from the United Kingdom or of any of the colonies or dependencies of the United Kingdom or any foreign country

Customs duties may be imposed not differential though contrary to existing Acts of Parliament.  
Order in Council.  
s. 19. 1 Pring 241.  
Schedule to 18 & 19 Vic. c. 54. 17 Vic No. 41 s. 45. 1 Pring 230.

Provided always that no new duty shall be so imposed upon the importation into the said colony of any article the produce or manufacture of or imported from any particular country or place which shall not be equally imposed on the importation into the said colony of the like article the produce or manufacture of or exported from all other countries and places whatsoever.

24. All laws statutes and ordinances which at the time when this Act shall come into operation shall be in force within the said colony shall remain and continue to be of the same authority as if this Act had never been made except in so far as the same are repealed and varied hereby and all courts of civil and criminal jurisdiction within the said colony and all charters legal commissions powers and authorities and all offices judicial administrative or ministerial within the said colony respectively except so far as the same may be abolished altered or varied by or may be inconsistent with the provisions of this Act shall continue to subsist as if this Act had not been made.

Force of laws and authority of courts preserved.  
Order in Council. s. 20. 1 Pring 241.  
Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 41. 1 Pring 229.

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*Crown Rights and Revenues.*

34. All taxes imposts rates and duties and all territorial casual and other revenues of the Crown (including royalties) from whatever source arising within this colony and over which the present or future Legislature has or may have power of appropriation shall form one consolidated revenue fund to be appropriated for the public service of this colony in the manner and subject to the charges hereafter mentioned. All duties and revenues to form consolidated revenue fund. Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 47. 1 Pring 230.
35. The consolidated revenue fund of this colony shall be permanently charged with all the costs charges and expenses incident to the collection management and receipt thereof such costs charges and expenses being subject nevertheless to be reviewed and audited in such manner as shall be directed by any Act of the Legislature. Such fund permanently charged with expenses of collection. Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 48. 1 Pring 230.
36. There shall be payable in every year to Her Majesty, Her Heirs and Successors out of the consolidated revenue fund of this colony the several sums not exceeding in the whole sum of fourteen thousand nine hundred pounds for defraying the expense of the several services and purposes named in the Schedules A and B to this Act annexed the several sums to be issued by the Colonial Treasurer in discharge of such warrant or warrants as shall from time to time directed under the hand of the Governor and the said Treasurer shall account to Her Majesty through the Lords Commissioners of Her Majesty's Treasury in such manner and form as Her Majesty shall be graciously pleased to direct. Civil list of £16,500 payable to Her Majesty. Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 49. 1 Pring 231. See Order in Council s. 21 and civil list. 1 Pring 242 and 25 Vic. No. 23. 1 Pring 260.
37. The said several sums mentioned in Schedules A and B shall be accepted and taken by Her Majesty, Her Heirs and Successors by way of civil list instead of all territorial casual and other revenues of the Crown (including all royalties) from whatever source arising within the said colony and to the disposal of which the Crown may be entitled either absolutely or conditionally or otherwise howsoever. Civil list to be accompanied by surrender of all revenues of the Crown. Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 50. 1 Pring 230.
38. Two thousand one hundred pounds in each year shall be payable for pensions to the judges of the Supreme Court out of the sum set apart for pensions in the said Schedule B but such last-mentioned sum shall be rateably or proportionally increased whenever the number of such judges or their respective salaries may or shall be increased. Pensions payable to judges of Supreme Court. Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 51. 1 Pring 231.

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THE CONSTITUTION ACT OF 1867

*Crown Rights and Revenues.*

39. After and subject to the payments to be made under the provisions hereinbefore contained all the consolidated revenue fund heretofore mentioned shall be subject to be appropriated to such specific purposes as by any Act of the Legislature of the colony shall be prescribed in that behalf Consolidated revenue to appropriated by Act of the Legislature.

Provided that the consolidation of the revenues of this colony shall not affect the payment of the annual interest or the principle sums mentioned in any outstanding debentures or other charge upon the territorial revenue as such interest principle or other charge severally becomes due nor shall such consolidation affect the payment of any sum or sums heretofore charged upon the taxes duties rates and imposts now raised levied and collected or to be raised levied and collected to and for the use of this colony for such time as shall have been appointed by any Acts of the said Legislature by which any such charge was authorised. Debentures or any other charges on consolidated revenue fund not to be affected by such consolidation. Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 53. 1 Pring 231.

40. The entire management and control of the waste lands belonging to the Crown in the said colony of Queensland and also the appropriation of the gross proceeds of the sales of such lands and of all other proceeds and revenues of the same from whatever source arising within the said colony including all royalties mines and minerals shall be vested in the Legislature of the said colony The entire management of Crown lands and all revenues thence arising to be vested in the local Legislature. Schedule to 18 & 19 Vic. c. 54. 17 Vic. No. 41 s. 58. 1 Pring 232.

Provided that nothing herein contained shall affect or be construed to affect any contract or to prevent the fulfilling of any contract or to prevent the fulfilment of any promise or engagement made by or on behalf of Her Majesty with respect to any lands situate within the said colony in cases where such contracts promises or engagements shall have been lawfully made before the time at which this Act shall take effect within this colony nor to disturb or in any way interfere with or prejudice any vested or other rights which have accrued or belong to the licensed occupants or lessees of any Crown lands within or without the settled districts under and by virtue of the Act of the Imperial Parliament passed in the ninth and tenth years of Her Majesty's reign chapter one hundred and four or of any order or orders of Her Majesty in Council issued in pursuance thereof. This provision not to affect any previous contracts of Her majesty respecting any such lands nor any vested rights which have arisen & 10 Vic. c. 104. nor any vested right or interest which has accrued under any Order of council issued by Her Majesty in Council in pursuance thereof. 18 & 19 Vic. c. 54. s. 2. 1 Pring 221. Schedule thereto 17 Vic. No. 41 s. 68. 1 Pring 231. Power to order the attendance of persons. 25 Vic. No. 7. s. 1. 1 Pring 258. Order to attend to be notified by summons. 25 Vic. No. 7. s. 2. 1 Pring 258.

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THE CONSTITUTION ACT OF 1867

*Powers and Privileges of Houses of Parliament.*

41. Each House of the Parliament of the said colony and any committee of either House duly authorised by the house to send for persons or papers may order any person to attend before the house or before such committee as the case may be and also to produce to such House or committee any paper book record or other document in the possession of such person.

Power to order the attendance of persons.

25 Vic. No. 7. s. 1. 1 Pring 258.

42. Any such order to attend or to produce documents before either House shall be notified to the person required to attend or to produce documents by a summons under the hand of the President or Speaker as the case may be and any such order to attend or to produce documents before any such committee shall be notified to the person required to attend or to produce documents by a summons under the hand of the clerk of the House authorised by the chairman of the Committee and in every such summons shall be stated the time and place when and where the person summoned is to attend and the particular documents which he is required to produce and such summons shall be served on the person mentioned therein either by delivering to him a correct copy of such summons or by leaving a correct copy of the same with some adult person at his usual or last known place of abode in the colony and there shall be paid or tendered by the person so summoned if he shall not reside within five miles of the Legislative Chambers a reasonable sum for his expenses of attendance.

Order to attend to be notified by summons.

25 Vic. No. 7. s. 2.

43. A member of either House may be ordered by the house of which he is a member to attend before either House or before any committee of either House without summons.

Attendance of members

25 Vic. No. 7 s. 3. 1 Pring 259.

Schedule to 18 & 19

Vic. c. 54. 17 Vic. No. 41 s. 54.

44. If any person ordered to attend or produce any paper book record or other document to either House or to any committee of either House shall object to answer any question that may be put to him or to produce any such paper, book, record or other document on the ground that the same is of a private nature and does not affect the subject of inquiry the President or Speaker or the chairman of the committee as the case may be shall report such refusal with the reason thereof to the House who shall excuse the answering of such question or the production of such paper book record or other document or order the answering or production thereof as the circumstances in the case may require.

Objection to answer questions or produce documents to be reported to House.

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VICTORIÆ REGINÆ

THE CONSTITUTION ACT OF 1867

*Powers and Privileges of Houses of Parliament.*

45. Each House of the said Parliament is hereby empowered to punish in a summary manner as for contempt by fine according to the standing orders of either House and in the event of such fine not being immediately paid by imprisonment in the custody of its own officer in such place within the colony as the House may direct or in Her Majesty's gaol at Brisbane until such fine shall have been paid or until the end of the then existing session or any portion thereof any of the offences hereinafter enumerated whether committed by a member of the house or by any other person —

Houses empowered to punish summarily for ... contempts.  
25 Vic. No. 7 s. 4. 1 Pring 259.

Disobedience to any order of either House or of any committee duly authorised in that behalf to attend or to produce papers, books, records or other documents before the House or such committee unless excused by the House in manner aforesaid.

Refusing to be examined before or to answer any lawful and relevant question put by the House or any such committee unless excused by the House in manner aforesaid.

The assaulting ob-structing or insulting any member in his coming to or going from the House or on account of his behaviour in Parliament or endeavouring to compel any member by force insult or menace to declare himself in favour of or against any proposition or matter depending or expected to be brought before either House.

The sending to a member any threatening letter on account of his behaviour in Parliament.

The sending [of] a challenge to fight a member.

The offering of a bribe or attempting to bribe a member.

The creating or joining in any disturbance in the House or in the vicinity of the House while the same is sitting whereby the proceedings of such House may be interrupted.

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THE CONSTITUTION ACT OF 1867

*Powers and Privileges of Houses of Parliament.*

46. For the purposes of punishing any of the contempts aforesaid the President or Speaker as the case may be is hereby empowered upon the resolution in that behalf of the House to issue his warrant under his hand for the apprehension and imprisonment as aforesaid of any person adjudged by the house guilty of any such contempt if such fine shall not have been paid as aforesaid.

President or Speaker to issue warrant.  
25 Vic. No. 7 s. 4. 1 Pring 259.

47. Any person creating or joining in any disturbance in the House during its actual sitting may be apprehended without warrant on the verbal order of the President or Speaker put in the custody of the officer of the House until a warrant can be made out for the imprisonment of such person in the manner aforesaid.

Persons disturbing proceedings of House may be arrested without warrant.  
25 Vic. No. 7 s. 7. 1 Pring 259.

48. Every such warrant shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the House the President or Speaker whereof shall have issued the same specifying the nature of such contempt in the words of this Act defining the same or in equivalent words and every warrant shall be sufficient from which it can be reasonably collected that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid and no particular form shall be necessary to be observed in such warrant.

Form of warrant.  
25 Vic. No. 7 s. 7. 1 Pring 260.

49. The sheriff and his officers and all constables and other persons are hereby required to assist in the apprehension and detention of any person in pursuance of the verbal order as aforesaid of the President or Speaker as the case may be and also to be aiding and assisting in the execution of any such warrant as aforesaid and where any such warrant as aforesaid and where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol the keeper thereof is hereby required to receive such person into his custody in the said gaol and there to imprison him according to the tenor of the warrant.

Sheriffs constables and others to assist in execution of warrant or verbal order.  
25 Vic. No. 7 s. 9. 1 Pring 260.  
Gaoler to imprison.

50. It shall be lawful for any person charged with or assisting in the execution of any warrant under the hand of the President or Speaker issued under the authority of this Act to break open in daytime all doors of places where the person for whose apprehension such warrant was issued is concealed.

Doors may be broken open in executing warrant.  
25 Vic. No. 7 s. 10. 1 Pring 260.

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THE CONSTITUTION ACT OF 1867

*Powers and Privileges of Houses of Parliament.*

51. The publishing of any false or scandalous libel of any member touching his conduct as a member by any person other than a member is hereby declared to be a misdemeanour and it shall be lawful for either House to direct the Attorney-General to prosecute before the supreme Court any such person committing any such misdemeanour and any such person convicted before the said court of any such misdemeanour shall be liable to imprisonment for any period not exceeding two years or to a fine not exceeding one hundred pounds or to both such punishments.

House may direct Attorney-General to prosecute for other contempts.  
25 Vic. No. 7 s. 12. 1 Pring 260.  
Wilfully false answers how punished.  
25 Vic. No. 7 s. 13. 1 Pring 260.

52. It shall be lawful for either House to direct the Attorney-General to prosecute before the Supreme Court any such person guilty of any other contempt against the House which is punishable by law.

53. If any person before either house or before any committee of either House shall give a wilfully false answer to any lawful and relevant question which shall be put to him during the course of any examination he shall be guilty of a misdemeanour and shall be liable on being convicted thereof to be punished in the same manner as though he had been convicted of wilful and corrupt perjury.

Proceedings criminal or civil against persons for publication of papers printed by order of Legislative Council and Assembly to be stayed upon delivery of a certificate and affidavit to the effect that such publication is by order of the said Legislative Council or Assembly  
13 Vic. No. 16 s. ... 1 Pring 569.

(31 Vic. No. 38)  
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THE CONSTITUTION ACT OF 1867

*Powers and Privileges of Houses of Parliament.*

54. And whereas it is essential to the due and effectual exercise and discharge of the functions and duties of the Legislature that no obstructions or impediments should exist to the publication of such of the reports, papers, votes and proceedings of the Legislative Council and Assembly as the said Council or Assembly as the said Council or Assembly may deem fit or necessary to be published and whereas obstructions or impediments to such publication may hereafter arise by means of civil or criminal proceedings being taken against persons employed by or acting under authority of the said Council or Assembly in the publication of such reports, papers, votes or proceeding remedy whereof it is expedient that protection should be afforded to all persons acting under the authority aforesaid be it enacted

Proceedings criminal or civil against persons for publication of papers printed by order of Legislative Council and Assembly to be stayed upon delivery of a certificate and affidavit to the effect that such publication is by order of the said Legislative Council or Assembly.  
13 Vic. No. 16 s. ... 1 Pring 569.  
Schedule to 18 & 19  
Vic. c. 54. 17 Vic. No. 41 s. 54.

That it shall and may be lawful for any person or persons who shall be a defendant and may be lawful for any person or persons who shall be a defendant or defendants in any civil or criminal proceeding commenced or prosecuted in any manner soever for or on account or in respect of the publication of any such reports, papers, votes or proceedings by such person or persons or by his her or their servant or servants or by or under the authority of the Legislative council or Assembly of the said colony to bring before the court in which such proceeding shall have been or shall be so commenced or prosecuted or before any judge of the same first giving twenty-four hours notice of his intention to do so to the prosecutor or plaintiff in such proceeding in certificate under the hand of the President or Speaker of the said Legislative Council or Assembly or of the clerk of the said Council or Assembly stating that the report, paper, votes or proceedings as the case may be in respect whereof such civil or criminal proceedings shall have been commenced or prosecuted was published by such person or persons or by his, her or their servants by order or under the authority of the said Council or Assembly or a committee thereof together with an affidavit verifying such certificate and such court or judge shall thereupon immediately stay such civil or criminal proceeding and the same and every writ or process issued therein shall be and shall be deemed to be finally put an end to determined and superceded by virtue of this Act.

55. In case of any civil or criminal proceeding to be commenced or prosecuted for or on account or in respect of the publication of any copy of such report, paper, votes or proceedings it shall be lawful for the defendant or defendants at any stage of the proceedings to give in evidence under the general issue such report, paper, votes or proceedings and to show that such extract or abstract was published *bonâ fide* and without malice and if such shall be the opinion of the jury a verdict of not guilty shall be entered for the defendant or defendants.

Proceedings to be stayed when commenced in respect of the publication of a copy of the authenticated report & C. or affidavit verifying such copy being laid before the court.  
13 Vic. No. 16 s. 8. 1 Pring 570

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THE CONSTITUTION ACT OF 1867

*Commencement and Short Title.*

57. This Act shall commence on the thirty-first day of December  
one thousand eight hundred and sixty-seven [31 December 1867] and  
may be referred to as the "*Constitution Act of 1867.*"

Commencement of Act.

Short title.

The only points in need of being considered from the entirety of the preceding Act for the current purposes is the constitution of the Legislature. The Constitutional and lawful form of “good government”, and/or the hierarchic order of governance, or the *Legislature* that is Enacted and Constituted and thereby expressly Established *as, in and by* THE CONSTITUTION ACT OF 1867. These points consists in –

the Remote Monarch[y in the perpetuity of the Crown of the United Kingdom] –  
as Possessor and Ruler of the Dominion  
as the Power conferring authority of governance to competent colonial  
Legislature; and

a Monarch appointed executive Governor-General; and/or

a Monarch appointed executive Governor In Council; and

a life-long appointed, unelected Legislative Council; and

an elected Legislative Assembly; and

a Governor [-General] appointed President to preside over the Legislative Council;  
and;

an (assumedly elected) Speaker to preside over the Legislative Assembly.

*For the present purposes*, (apart from the immediately preceding) all of the other details of the Act of 1867, and the history and the determinations and invalid enactments of and pertaining to the Legislature and Powers of the Parliament of the colony-State of Queensland since the year 1900 are *superfluous* to the discussion.

From the date of the Royal Assent to THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT (63 & 64 VICT. c. 12) the Legislature of the colony-State of Queensland as constituted *in and by* THE CONSTITUTION ACT OF 1867 has been *unconstitutional* and *unlawful*. One hundred and eighteen years of *convention* does not make for a single moment of lawful authority to enact laws (even ostensibly) for the *peace, welfare and good govern-ment* of the colony-State of Queensland, based as they are in an out-moded and broken-down and superceded Constitution (1867) which is *repugnant to* the 1900 Constitution of the Governments of the Commonwealth and its States.

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It is not thus that the self-governing colony of Queensland becomes a self-governing colony of British subjects, subjects of the Crown of the United Kingdom: the “good government” of the colony is *constituted*, nearly nine years after the colonial-territorial separation from the colony of New South Wales. But there is nothing really special about the term “self-governing” –

(58 & 59 VICT. c. 34.)

THE COLONIAL BOUNDARIES ACT OF 1895

(3.) In this Act “self-governing colony” means any of the colonies specified in the schedule to this Act.

SCHEDULE

SELF-GOVERNING COLONIES

Canada.  
Newfoundland.  
New South Wales.  
Victoria.  
South Australia.  
Queensland.  
Western Australia.  
Tasmania.  
New Zealand.  
Cape of Good Hope.  
Natal.

“Self-governance” is effectively no different to “responsible government” which was attained by the colonies of Victoria, Tasmania, New Zealand and New South Wales in 1856, South Australia in 1857, and Queensland in 1859.

The colony of Queensland, though, was selected to trial the 1867 Constitutional model (from 31 December 1867) which had been in development since 1842 (THE AUSTRALIAN CONSTITUTIONS ACT OF 1842 (5 & 6 Vic. c. 76 )) constituting the governance of New South Wales and Van Dieman’s Land until 1859), and which is merely a point in a developmental phase between 1842 and 1900 to the final form of COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900.

THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900 [re-]constitutes the lawful form of governance for the whole of the *Commonwealth* and its *States* (*on, as of* and *from* 9 July 1900).

The following pages contain an accurate and faithful transcription of the **Commonwealth of Australia Constitution Act** as it was apparently assented to by Her Majesty, Queen Victoria and the then [considered to be] *competant* Legislature of the Australian Territories.

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(63 & 64 VICT. c. 12)

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

An Act to Constitute the Commonwealth of Australia

*La Reyne le veult*

9 July 1900

*Chapter 12*

(63 & 64 VICT. c. 12)

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

AN ACT TO CONSTITUTE THE COMMONWEALTH OF AUSTRALIA

[Assented to, Enacted and Commenced *on, as of* and *from* 9 July 1900]

[*Preamble*]

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*1. Short title*

This Act may be cited as the “Commonwealth of Australia Constitution Act.”

*2. Act to extend to the Queen's successors*

The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

(63 & 64 VICT. c. 12)  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

*3. Proclamation of Commonwealth*

It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

*4. Commencement of Act*

The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

*5. Operation of the constitution and laws*

This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

*6. Definitions*

**"The Commonwealth"** shall mean the Commonwealth of Australia as established under this Act.

**"The States"** shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called **"a State."**

**"Original States"** shall mean such States as are parts of the Commonwealth at its establishment.

*7. Repeal of Federal Council Act. 48 & 49 Vict. c. 60.*

The Federal Council of Australasia Act, 1885, is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth.

Any such law may be repealed as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

*8. Application of Colonial Boundaries Act. 58 & 59 Vict. c. 34.*

After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that Act.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**THE CONSTITUTION**

*9. The Constitution of the Commonwealth shall be as follows:—*

This Constitution is divided as follows:—

Chapter I. — The Parliament:

Part I. — General:

Part II. — The Senate:

Part III. — The House of Representatives:

Part IV. — Both Houses of the Parliament:

Part V. — Powers of the Parliament:

Chapter II. — The Executive Government:

Chapter III. — The Judicature:

Chapter IV. — Finance and Trade:

Chapter V. — The States:

Chapter VI. — New States:

Chapter VII. — Miscellaneous:

Chapter VIII. — Alteration of the Constitution.

The Schedule.

(63 & 64 VICT. c. 12)  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER I  
THE PARLIAMENT  
PART I—GENERAL**

*1. Legislative Power*

The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is herein-after called “The Parliament,” or “The Parliament of the Commonwealth.”

*2. Governor-General*

A Governor-General appointed by the Queen shall be Her Majesty’s representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen’s pleasure, but subject to this Constitution, such powers and functions of the Queen as her Majesty may be pleased to assign to him.

*3. Salary of Governor*

There shall be payable to the Queen out of the Consolidated Revenue fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be ten thousand pounds. The salary of a Governor-General shall not be altered during his continuance in office.

*4. General Provisions relating to Governor-General*

The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

*5. Sessions of Parliament  
Prorogation and dissolution*

The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

*6. Summoning Parliament*

After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

*7. First session*

The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

*6. Yearly session of Parliament*

There shall be a session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER I**  
**THE PARLIAMENT**  
**PART II – THE SENATE**

*13. Rotation of Senators*

As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made in the year at the expiration of which the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of January following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of January preceding the day of his election.

*14. Further provision for rotation*

Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.

*15. Casual vacancies*

If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor General.

*16. Qualifications of senator*

The qualifications of a senator shall be the same as those of a member of the House of Representatives.

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*17. Election of President*

The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

*18. Absence of President*

Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence.

*19. Resignation of senator*

A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

*20. Vacancy by absence*

The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate.

*21. Vacancy to be notified.*

Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

*22. Quorum*

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

*23. Voting in Senate*

Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to vote; and when the votes are equal the question shall pass in the negative.

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**PART III – THE HOUSE OF REPRESENTATIVES**

*24. Constitution of House of Representatives*

The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner: —

(i) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators:

(ii.) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

*25. Provision as to races disqualified from voting*

For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State not [to] be counted.

*26. Representatives in first Parliament.*

Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows: —

New South Wales ---- twenty-three;  
Victoria ----- twenty;  
Queensland ----- eight;  
South Australia ----- six;  
Tasmania ----- five;

Provided that if Western Australia is an Original State, the numbers shall be as follows: —

New South Wales ----- twenty-six;  
Victoria ----- twenty-three;  
Queensland ----- nine;  
South Australia ----- seven;  
Western Australia ----- five;  
Tasmania ----- five.

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*27. Alteration of number of members*

Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

*28. Duration of House of Representatives*

Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

*29. Electoral Divisions*

Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

*30. Qualification of electors*

Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

*31. Application of State laws*

Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

*32. Writs for general election*

The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

*24. Writs for vacancies*

Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

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*34. Qualifications of members*

Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows: —

(i) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the house of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:

(ii) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

*35. Election of Speaker*

The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

*36. Absence of Speaker*

Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

*37. Resignation of member*

A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

*38. Vacancy by absence*

The place of a member shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

*39. Quorum*

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

*40. Voting in House of Representatives*

Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker.

The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

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*41. Right of electors of States*

No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

*42. Oath of affirmation of allegiance*

Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

*43. Member of one House ineligible for other Disqualification*

A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

*44. Disqualification*

Any person who –

(i) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power: or

(ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer: or

(iii) Is an undischarged bankrupt or insolvent: or

(iv.) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or

(v.) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons:

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section iv. Does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

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*45. Vacancy on happening of disqualification*

If a senator or member of the House of Representatives –

- (i) Becomes subject to any of the disabilities mentioned in the last preceding section: or
- (ii) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors: or
- (iii) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State: his place shall thereupon become vacant.

*46. Penalty for sitting when disqualified*

Until the Parliament otherwise provides, any person declared by this constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

*47. Disputed elections*

Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

*48. Allowance to members*

Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

*49. Privileges, &c. of Houses*

The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

*50. Rules and orders*

Each House of the Parliament may make rules and orders with respect to –

- (i) The mode in which its powers, privileges, and immunities may be exercised and upheld:
- (ii) The order and conduct of its business and proceedings either separately or jointly with the other House.

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*51. Legislative powers of the Parliament*

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: –

- (i) Trade and commerce with other countries, and among the States:
- (ii) Taxation; but so as not to discriminate between States or parts of States:
- (iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:
- (iv) Borrowing money on the public credit of the Commonwealth:
- (v) Postal, telegraphic, telephonic, and other like services:
- (vi) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:
- (vii) Lighthouses, lightships, beacons and buoys:
- (viii) Astronomical and meteorological observations:
- (ix) Quarantine:
- (x) Fisheries in Australian waters beyond territorial limits:
- (xi) Census and statistics:
- (xii) Currency, coinage, and legal tender:
- (xiii) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:
- (xiv) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:
- (xv) Weights and measures:
- (xvi) Bills of exchange and promissory notes:
- (xvii) Bankruptcy and insolvency:
- (xviii) Copyrights, patents of inventions and designs, and trade marks:
- (xix) Naturalization and aliens:
- (xx) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:
- (xxi) Marriage:
- (xxii) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:
- (xxiii) Invalid and old-age pensions:
- (xxiv) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:
- (xxv) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:

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*51. Legislative powers of the Parliament* (continued)

(xxvi) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws:

(xxvii) Immigration and emigration:

(xxviii) The influx of criminals:

(xxix) External affairs:

(xxx) The relations of the Commonwealth with the islands of the Pacific:

(xxxi) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:

(xxxii) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:

(xxxiii) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:

(xxxiv) Railway construction and extension in any State with the consent of that State:

(xxxv) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:

(xxxvi) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:

(xxxvii) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred or which afterwards adopt the law:

(xxxviii) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

(xxxix) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

*52. Exclusive powers of the Parliament*

The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to –

(i) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes:

(ii) Matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth:

(iii) Other matters declared by this Constitution to be within the exclusive power of the Parliament.

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*53. Powers of the Houses in respect of legislation*

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

*54. Appropriation Bills*

The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

*55. Tax Bill*

Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect. Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

*56. Recommendation of money votes*

A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

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*57. Disagreement between the Houses*

If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

*58. Royal assent to Bills*

When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

*59. Recommendations by Governor-General*

The Governor-General may return to the house in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

*60. Disallowance by the Queen*

The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

*Signification of Queen's pleasure on Bills reserved*

A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

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**CHAPTER II**  
**THE EXECUTIVE GOVERNMENT**

*61. Executive power*

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

*62. Federal Executive Council*

There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

*63. Provisions referring to Governor-General*

The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

*64. Ministers of State*

The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

*[64 A] Ministers to sit in Parliament*

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

*65. Number of Ministers*

Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.

*66. Salaries of Ministers*

There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed twelve thousand pounds a year.

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*67. Appointment of civil servant*

Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.

*68. Command of naval and military forces*

The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

*69. Transfer of certain departments*

On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:—

Posts, telegraphs, and telephones: Naval and military defence:

Lighthouses, lightships, beacons, and buoys: Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

*70. Certain powers of Governors to vest in Governor-General*

In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

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**CHAPTER III**  
**THE JUDICATURE**

*71. Judicial power and Courts*

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

*72. Judges' appointment, tenure, and remuneration*

The Justices of the High Court and of the other courts created by the Parliament –

(i) Shall be appointed by the Governor-General in Council:

(ii) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity:

(iii) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

*73. Appellate jurisdiction of High Court*

The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences –

(i) Of any Justice or Justices exercising the original jurisdiction of the High Court:

(ii) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council:

(iii) Of the Inter-State Commission, but as to questions of law only: and judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

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*74. Appeal to Queen in Council*

No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits *inter se* of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

*75. Original jurisdiction of High Court*

In all matters –

(i) Arising under any treaty:

(ii) Affecting consuls or other representatives of other countries:

(iii) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:

(iv) Between States, or between residents of different States, or between a State and a resident of another State:

(v) In which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth: the High Court shall have original jurisdiction.

*76. Additional original jurisdiction*

The Parliament may make laws conferring original jurisdiction on the High court in any matter –

(i) Arising under this constitution, or involving its interpretation:

(ii) Arising under any laws made by the Parliament:

(iii) Of Admiralty and maritime jurisdiction:

(iv) Relating to the same subject-matter claimed under the laws of different States.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER III**  
**THE JUDICATURE**

*77. Power to define jurisdiction*

With respect to any of the matters mentioned in the last two sections the Parliament may make laws –

- (i) Defining the jurisdiction of any federal court other than the High Court:
- (ii) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:
- (iii) Investing any court of a State with federal jurisdiction.

*78. Proceedings against Commonwealth or State*

The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

*79. Number of judges*

The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

*80. Trial by jury*

The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

(63 & 64 VICT. c. 12)  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER IV  
FINANCE AND TRADE**

*81. Consolidated Revenue Fund*

All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.

*82. Expenditure charged thereon*

The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

*83. Money to be appropriated by law*

No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

*84. Transfer of officers*

When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of the State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER IV**  
**FINANCE AND TRADE**

*85. Transfer of property of State*

When any department of the public service of a State is transferred to the Commonwealth –

(i) All property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary:

(ii) The Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth:

(iii) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament:

(iv) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

*86. [Control of duties, customs and payment of bounties]*

On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

*87. [Net revenue of Commonwealth]*

During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

*88. Uniform duties of customs*

Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER IV**  
**FINANCE AND TRADE**

*89. Payment to States before uniform duties*

(i) Until the imposition of uniform duties of customs –

The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(ii) The Commonwealth shall debit to each State –

(a) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;

(b) The proportion of the state, according to the number of its people, in the other expenditure of the Commonwealth.

(iii) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

*90. Exclusive power over customs, excise, and bounties*

On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

*91. Exceptions as to bounties*

Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

*92. Trade within the Commonwealth to be free*

On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER IV**  
**FINANCE AND TRADE**

***93. Payment to States for five years after uniform tariffs***

During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides –

(i) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State:

(ii) Subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several State of all surplus revenue of the Commonwealth.

***94. Distribution of surplus***

Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may, during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

***95. Customs duties of Western Australia***

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

***96. Financial assistance to States***

During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER IV**  
**FINANCE AND TRADE**

**97. *Audit***

Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

**98. *Trade and commerce includes navigation and State railways***

The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

**99. *Commonwealth not to give preference***

The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

**100. *Nor abridge right to use water***

The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

**101. *Inter-State Commission***

There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

**102. *Parliament may forbid preferences by State***

The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

(63 & 64 VICT. c. 12)  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER IV  
FINANCE AND TRADE**

*103. Commissioners' appointment, tenure, and remuneration*

The members of the Inter-State Commission –

(i) Shall be appointed by the Governor-General in Council:

(ii) Shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity:

(iii) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

*104. Saving of certain rates*

Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

*105. Taking over public debts of States*

The Parliament may take over from the States their public debts as existing at the establishment of the Commonwealth, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER V**  
**THE STATES**

***106. Saving of Constitutions***

The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the state, as the case may be, until altered in accordance with the Constitution of the State.

***107. Saving of Power of State Parliaments***

Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

***108. Saving of State laws***

Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

***109. Inconsistency of laws***

When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

***110. Provisions referring to Governor***

The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

***111. States may Surrender territory.***

The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

***112. State may levy charges for inspection laws***

After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

**(63 & 64 VICT. c. 12)**  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER V**  
**THE STATES**

***113. Intoxicating liquids***

All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

***114. States may not raise forces***  
***Taxation of property of Commonwealth or State***

A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

***115. States not to coin money***

A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

***116. Commonwealth not to legislate in respect of religion***

The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

***117. Rights of residents in States***

A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

***118. Recognition of laws & c. of States***

Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

***119. Protection of States from Invasion and violence***

The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

***120. Custody of offenders against laws of the Commonwealth***

Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

(63 & 64 VICT. c. 12)  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER VI  
NEW STATES**

*121. New States may be admitted or established*

The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

*122. Government of territories*

The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

*123. Alteration of limits of States*

The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

*124. Formation of new States*

A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

CHAPTER VII  
MISCELLANEOUS

*125. Seat of Government*

The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor. The Parliament shall sit at Melbourne until it meet at the seat of Government.

*126. Power to Her Majesty to authorise Governor-General to appoint deputies*

The Queen may authorise the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

*127. Aborigines not to be counted in reckoning population*

In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

(63 & 64 VICT. c. 12)  
**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT**

**CHAPTER VIII  
ALTERATION OF THE CONSTITUTION**

*128. Mode of altering the Constitution*

This Constitution shall not be altered except in the following manner: —

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails. And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

**(31 Vic. No. 38)**

*versus*

**(63 & 64 VICT. c. 12)**

From the Royal Assent and Enactment and Declaration and Establishment of THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT (63 & 64 VICT. c. 12) *on, as of* and *from* 9 July 1900, the *Constitutional* and *lawful* form or *constitution* of the Parliaments *of* and *throughout* the Commonwealth is to be *that which is* and *as it is* constituted and established *in* and *by* the Act. The Constitution of the Parliaments of the Commonwealth and its States is not an *option*, but which is conditionally pre-determined by statutory law.

The Legislative Council and Legislative Assembly of the 1867 form of Constitutional Legislature, as a replication of the British House of Lords and the Commons, is modified, abrogated and effectively annulled by (63 & 64 VICT. c. 12) which constitutes the lawful Legislature of the Commonwealth and its States from the date of its Enactment (9 July 1900).

The lawful Parliamentary constitution established by (63 & 64 VICT. c. 12) is:

the Reigning Monarch in the perpetuity of the Crown and Monarchy of the United Kingdom of Great Britain and the dominions of that Crown;

the Reigning Monarch as Executive Power;

the Monarch as the Principle Aspect of the Parliament;

Their (optionally) appointed representative and executive Power, a Governor-General; and/or

Their appointed representatives and executives – the Governor in Council as Administrator of Government in the Parliaments of the Commonwealth and its States; and

the Governors of the States; and

the Senates and the Houses of Representatives to be comprised of lawfully elected senators and members; and

a Senate elected President to preside over the Senate;

a House elected Speaker to preside over the House of Representatives.

Aside from the Monarch (in the perpetuity of the Monarchy) and although the Offices of Commonwealth and State *Governors in Council* and *Governors* are Constitutionally stipulated and thus lawfully necessary, the Office of Governor-General and the positions of *any individual* members and senators are not *hereditary, fixed of term or permanent*. The *Governor-General* serves at the pleasure of the Reigning Monarch and the *Governor in Council* may prorogue or dissolve and issue writs for new elections of members *at their discretion* and to the extent of their powers, but subject to the Laws and Constitution of the Commonwealth.

The colony of Queensland, which becomes a State of the Commonwealth at Federation (1901), unconstitutionally and unlawfully retains its 1867 form of government (*to wit* the Legislative Council and Legislative Assembly) and does not replace it with an elected Senate, as is made law *in* and *by* THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900. The Legislative Council is eventually abolished in the colony-State of Queensland by THE CONSTITUTION AMENDMENT ACT OF 1922 (see section 2), but the lawful and constitutional composition of the Legislature (Senate and House of Representatives *as it is constituted in and by* the Constitution of 1900) *is not adhered to* by the government of the colony-State of Queensland, and to this day (since 1900 *and* since THE CONSTITUTION ACT AMENDMENT ACT OF 1922, 12 Geo. 5 No. 32) the legislature of the colony-State of Queensland consists solely of the Legislative Assembly; *and* which, because it appears to continue to exercise the powers of the 1867 Constitution, does not even consist of a constitutionally lawful House of Representatives. One hundred and nineteen years of legislating from an invalidated parliament would seem to imply one hundred and eighteen years of invalid legislation.

Now, *adopted* and *continued conventions* are all very well and *convenient to* interested purposes, but conventions which are *repugnant to* and/or *inconsistent with* the Constitution of the Commonwealth (63 & 64 VICT. c. 12) are illegitimate, unconstitutional and unlawful to the extent of a constitutionally un-recognised form of Parliament not having any constitutional or lawful constitution in conformity to (63 & 64 VICT. c. 12) and thus having no authority to legislate or govern in or for any Territory or State.

(28 & 29 VIC. c. 63)  
THE COLONIAL LAWS VALIDITY ACT OF 1865

*2. Colonial Law when void for Repugnancy*

Any Colonial Law which is or shall be in any respect repugnant to the Provisions of any Act of Parliament extending to the Colony to which such Law may relate, or repugnant to any Order or Regulation made under Authority of such Act of Parliament, or having in the Colony the Force and Effect of such Act, shall be read subject to such Act, Order, or Regulation, and shall, to the Extent of such Repugnancy, but not otherwise, be and remain absolutely void and inoperative.

*3. Colonial Law when not void for repugnancy*

No Colonial Law shall be or be deemed to have been void or inoperative on the Ground of Repugnancy to the Law of England unless the same shall be repugnant to the Provisions of some such Act of Parliament, Order, or Regulation as aforesaid.

The necessary implication of all this is that the colony-State of Queensland – since the Establishment of the Constitution *in* and *with* and *by* THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT *on, as of and from* 9 July 1900 *has never had Constitutional Authority* to be elected, to sit in the Parliament, or to exercise defunct powers, or to legislate, or to have a Parliament with such a constitution at all.

(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

*5. Operation of the constitution and laws*

This Act, and all laws made by the Parliament of the Commonwealth *under the Constitution*, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, *notwithstanding* anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

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There can be no mistake that (63 & 64 VICT. c. 12) is the Constitution referred to and that *only* laws *made under* or *in obedience to* or *in adherence to* or *subject to* (63 & 64 VICT. c. 12) are those which *shall be binding*. Laws made which are *repugnant to* or *inconsistent with* the statutes of (63 & 64 VICT. c. 12), or laws made by "government" which is unconstitutional, are *invalid* or *null* or *void* or *of no effect*.

NOTE: The word "**notwithstanding**": as a *preposition*, the meaning of the word "notwithstanding" is given as "in spite of"; as a *conjunction*, the meaning of the word is given as "in spite of the fact that, although"; as an *adverb*, the meaning of the word is given as "nevertheless, however, yet". (Chambers 20th Century). Thus the only viable *transduction* of the phrase "... *notwithstanding* anything in the laws of any State" is "*in spite of* anything in the laws of any State": s.5, in other words, *means* "This Constitution (63 & 64 VICT. c. 12) over-rules anything in the laws of any State to the extent of their repugnancy to it".

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*10. Applications of State laws*

Until the Parliament otherwise provides, but *subject to this Constitution*, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

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Here, it is necessary to understand that this section relates to the electoral conditions of the colonies prior to Federation, prior to the colonies becoming States of the Commonwealth. The implication of this section is that *senators* must be elected, "*as nearly as practicable*" as are the members of the Houses of Representatives of all of the Parliaments, until the Parliament of the Commonwealth (subject to the Constitution of 1900) provides the correct means of electing senators. The Legislative Council of 1867 is not the Senate of the Parliaments, and the Legislative Council of 1867 is not a senator: the terms of 1867 are *not included in* and are *thus expunged by* the Law of the Constitution of 1900.

(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

CHAPTER V  
THE STATES

106. *Saving of Constitutions*

The Constitution of each State of the Commonwealth shall, *subject to this Constitution, continue as at the establishment of the Commonwealth*, or as at the admission or establishment of the state, as the case may be, until altered in accordance with the Constitution of the State.

107. *Saving of Power of State Parliaments*

Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

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These sections *could* appear to contain a certain ambivalence which *could be interpreted as* allowing a State of the Commonwealth to persist with its pre-nineteen hundred constitution. Interpretations can be *mistaken*, just as they can be *interested*. Any possible interpretation is by no means a *correct* or *un-mistaken* or *un-interested* interpretation. The Commonwealth of Australia is not constituted so as to be wrongly or unlawfully or un-constitutionally *interpreted*; a *State* is not constituted so as to enable its arbitrary re-constitution or interested *radical* or *revolutionary transformation*. Such an absurdity as to allow for or enable constitutional disintegration obviates any such Constitution being enacted in the first place.

The term "*establishment of the Commonwealth*" pertains to both the *Establishment of the Constitution* (9 July 1900) and *the unity of the indissoluble Federation of the States of the Commonwealth under the Crown of the United Kingdom and the Constitution as established by Law* – (63 & 64 VICT. c. 12). The lawful establishment of the legitimate Commonwealth and its States is constituted *in* and *by* THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900. The becoming-state of a colony or territory is dependent upon its being *subject to* and *in full conformity to and compliance with* the stipulated terms and conditions and statutory laws of THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900. The Constitution of the legislatures (parliaments) of the Commonwealth and the States of the Commonwealth and their relations *are made law by and in* (63 & 64 VICT. c. 12).

The term “... until altered in accordance with the Constitution of the State” does not mean that the legislature of a State *may* operate or maintain or execute the powers of a Constitution which is *at variance with, inconsistent with, contradictory to* the Constitution of the Commonwealth; if a given territory-colony does not conform to the terms of the Constitution of 1900, it does not become a State and would remain under the Administration of the Commonwealth or such Crown appointed *competent body* as the case would require. Competence declared for one body (1867) obviously does not pertain to another body (in 2019).

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(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

CHAPTER V  
THE STATES

*108. Saving of State laws*

Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, *subject to this Constitution*, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

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Section 108. (*Saving of State laws*), would appear to pose a difficulty for our argument. This *appearance* is illusory. In becoming a State, a colony implements the Constitutionally lawful form of Government as Constituted *by and in* COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900, *OR it does not become a State and remains or is reduced to a colony or territory under the Crown OR Competent Central Administration (cf. the reluctance or inability of Western Australia to form Responsible government, for example, delays its Constitutional “state-hood”)*.

The 1867 form and powers of the Legislative Council and Legislative Assembly become defunct or null and void *on, as of and from* 9 July 1900 *and* Federation *by and in the terms and conditions of the Constitution of 1900*.

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(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

CHAPTER V  
THE STATES

*109. Inconsistency of laws*

When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

*117. Rights of residents in States*

A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

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Subjects of the Crown from 1900 are *entitled to* the form of *good government as it is lawfully constituted by and in* COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT OF 1900.

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(12 Geo. 5 No. 32)  
THE CONSTITUTION ACT AMENDMENT ACT OF 1922

[State of Queensland]

An Act to Amend the Constitution of Queensland by Abolishing the Legislative Council.

[Reserved: His Majesty's Assent Proclaimed 23 March 1922]

*1. Short title.*

This Act may be cited as "The Constitution Act Amendment Act of 1922," and shall be read and construed with and as an amendment of the "Constitution Act of 1867."

*2. Abolition of Legislative Council.*

- (1) The Legislative Council of Queensland is abolished.
- (2) The office of member of the said Legislative Council is abolished.
- (3) All offices constituted or created in or in connection with the said Legislative Council are abolished.

*That* the “government” of a colony-State chooses to retain an invalid constitutional form of government until 1922, when the Legislative Council is abolished, is *in-competence* in the sense of not being fit or responsible to form government, or to govern. This seems to indicate that such a colony would be required to be reduced to a territory-colony which is incapable of *responsible* or *self* government.

And then, from 1922 until the year 2019, the “government” of the colony-State persists in another matter of Constitutional illegitimacy by not establishing or re-establishing the 1900 Constitutional Parliamentary requirement of *The Monarch*, a *Governor*, a *Governor In Council*, a legitimate and legitimately elected and *Administrated Senate* and a *House of Representatives* is to subject the residents of that colony-territory to disabilities and discriminations which are against the Laws and Constitution of the Commonwealth and its States.

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From 9 July 1900 and the *becoming-law* of THE COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT, the lawful and constitutional means of altering any aspect of the Constitution, *which necessarily requires the lawful amendment of the Act of 1900*, the matter of the lawful Alteration of the Constitution of the Commonwealth and its States is *governed by* Statute 128. –

(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

CHAPTER VIII  
ALTERATION OF THE CONSTITUTION

*128. Mode of altering the Constitution*

This Constitution shall not be altered except in the following manner:—

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails. And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

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Thus, the 1867 colonial Legislature powers of constitutional alteration are null and void and of no effect at any time after 01 January 1901 – even if we disregard, for a moment, the lack of Constitutional legitimacy to govern. Under the Constitution of 1900, the parliament of a colony-State, even if constitutionally legitimate, has no power to effect changes to the statutorily constituted Constitution of powers, responsibilities and relations Enacted *by* and *as Established in* (63 & 64 VICT. c.12).

To take as an example, the *electoral term*:

(63 & 64 VICT. c. 12)  
COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

CHAPTER I  
THE PARLIAMENT  
PART III – THE HOUSE OF REPRESENTATIVES

*28. Duration of House of Representatives*

Every House of Representatives shall continue for three years from the first meeting of the House, *and no longer*, but may be sooner dissolved by the Governor-General.

This constitutes the electoral term for members of the Houses of Representatives in all of the Commonwealth. Statute 28 annuls and removes the 1867 constitutional authority which applied only to the competent authority of the colonial Legislature until 9 July 1900. The 1867 powers cannot be considered as a lawful instrument of constitutional alteration at any time since 9 July 1900.

The recent increase in the length of the electoral term from three years to four years is unlawful given that it does not follow Constitutional process for altering the constitution. Also, the instigators of this action have no authority to alter the electoral term of the colony-State of Queensland: to have one colony-State of an *indissoluble federation of states* ignore (63 & 64 VICT. c.12) while pretending to act in conformity with it (by holding a fake and merely nominal “referendum”), whilst not being competent to be in the Parliaments...—

The recent false enactment of the defective “constitution” of the colony-State by the illegitimate parliament thereof...—

The recent criminal abnegation of Federal Native Title by the illegitimate legislature of the colony-State...—

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